

AF 1751/4 cc

RECEIVED
AUG 04 2003
TC 1700

PATENT
CM2479

#10
MOT
8-6-03

CERTIFICATE OF MAILING

I hereby certify that this paper is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Mail Stop Appeal Brief - Patents; Commissioner for Patents; P.O. Box 1450; Alexandria, VA 22313-1450 on July 28, 2003.

Bonnie S. Herne

IN THE UNITED STATES PATENT & TRADEMARK OFFICE

Applicant: Huyhn et al. : Paper No.:
Serial No.: 09/994,532 : Group Art Unit: 1751
Filed: November 27, 2001 : Examiner: N. Ogden, Jr.
For: **Process of Cleaning Dishware Using a Dishwashing Wipe Having a Cleaning Substrate and a Scrubbing Substrate**

TRANSMITTAL OF APPEAL BRIEF

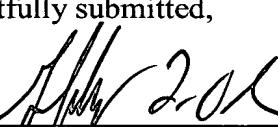
Mail Stop Appeal Brief - Patents
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

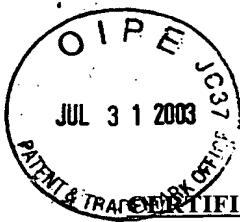
Dear Sir:

Submitted herewith in **triplicate** is an Appeal Brief in support of the Notice of Appeal filed by Certificate of Mailing on May 22, 2003 and received by the U.S. Patent and Trademark Office on May 28, 2003. Please charge the amount of \$320.00 to our Visa credit card account. Form PTO-2038 is attached. Please charge any additional fees required in connection with the present communication, or credit any overpayment, to Deposit Account No. 04-1133.

Respectfully submitted,

By


Geoffrey L. Oberhaus
Registration No. 42,955
DINSMORE & SHOHL LLP
1900 Chemed Center
255 East Fifth Street
Cincinnati, Ohio 45202
(513) 977-8623



CERTIFICATE OF MAILING

I hereby certify that this paper is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Mail Stop Appeal Brief - Patents; Commissioner for Patents; P.O. Box 1450; Alexandria, VA 22313-1450 on July 28, 2003.

Bonnie S. Denne

RECEIVED
AUG 04 2003
TC 1700

PATENT
CM2479

IN THE UNITED STATES PATENT & TRADEMARK OFFICE

Applicant: Huyhn et al. : Paper No.:

Serial No.: 09/994,532 : Group Art Unit: 1751

Filed: November 27, 2001 : Examiner: N. Ogden, Jr.

For: **Process of Cleaning Dishware Using a Dishwashing Wipe Having a Cleaning Substrate and a Scrubbing Substrate**

APPEAL BRIEF

Mail Stop Appeal Brief - Patents
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

The present Appeal Brief is submitted in support of the Notice of Appeal filed by Certificate of Mail on May 22, 2003 and received by the U.S. Patent and Trademark Office on May 28, 2003.

I. REAL PARTY IN INTEREST

The real party in interest in this appeal is the assignee of the present application, The Procter & Gamble Company.

II. RELATED APPEALS AND INTERFERENCES

08/01/2003 MBERHE 00000036 09994532

01 FC:1402

320.00 DP

There are no other appeals or interferences known to the Appellants, the Appellants' undersigned legal representative or the assignee which will directly effect or be directly effected by or having a bearing on the Board's decision in the present appeal.

III. STATUS OF THE CLAIMS

Claims 1-19 have been cancelled and claims 20-39 are pending in this application and stand rejected. Claims 20-39 are the subject of the present appeal. A complete copy of rejected claims 20-39 is set forth in the Appendix.

IV. STATUS OF AMENDMENT FILED SUBSEQUENT TO FINAL REJECTION

No claim amendments were made subsequent to the final rejection.

V. SUMMARY OF THE INVENTION

The present invention is directed to a process of cleaning dishware using a dishwashing wipe comprising a first softer, cleaning substrate and a second comparatively more abrasive scrubbing substrate comprising a web of fibers (see, for example, the specification at page 1, lines 5-7).

More particularly, according to claim 20, the process of cleaning dishware using a disposable dishwashing wipe comprises the steps:

contacting the dishwashing wipe with water; and

subsequently contacting the dishware with the dishwashing wipe;

wherein the dishwashing wipe comprises:

a nonwoven or paper cleaning substrate; and

a comparatively more abrasive scrubbing substrate comprising a polymeric mesh or scrim selected from the group consisting of: polyamide fibers, polyethylene

fibers, polypropylene fibers and mixtures thereof (see, for example, the specification at page 2, lines 13-20 and page 4, lines 23-36).

Claims 21-38 further define the process of claim 20. According to claim 21, the cleaning substrate of the dishwashing wipe comprises batting (see, for example, the specification at page 7, lines 15-16). According to claim 22, the cleaning substrate further comprises polyester single component fibers, polyester core-polyethylene sheath bicomponent fibers, or mixtures thereof (see, for example, the specification at page 7, line 32-page 8, line 8). According to claim 23, the cleaning substrate comprises a low-density batting compound comprising a blend of polyester fibers and polyester core-polyethylene sheath bicomponent fibers.

According to claim 24, the dishwashing wipe comprises at least two cleaning substrates (see, for example, the specification at page 8, lines 21-32). According to claim 25, the dishwashing wipe comprises at least two scrubbing substrates (see, for example, the specification at page 9, lines 31-35). Claim 26 recites that the cleaning substrate and scrubbing substrate of the dishwashing wipe are attached to each other around a perimeter of the cleaning substrate (see, for example, the specification at page 10, lines 14-27). According to claim 27, the dishwashing wipe further comprises a water impermeable membrane (see, for example, the specification at page 13, lines 9-32). According to claim 28, the water impermeable membrane comprises a polyethylene membrane.

According to claim 29, the scrubbing substrate is attached to one side of one of the cleaning substrates (see, for example, the specification at page 10, lines 1-7). According to claim 30, the process further comprises the step of rinsing the dishware with water (see, for example, the specification at page 3, lines 1-4). According to claim 31, the process further comprises the step of contacting the dishware with water (see, for example, the specification at page 2, lines 23-30).

According to claim 32, the wipe comprises a dishwashing composition (see, for example, the specification at page 3, lines 17-20). According to claim 33, the process further comprises the step: after contacting the dishwashing wipe with water, squeezing the dishwashing wipe to produce suds (see, for example, the specification at page 2, lines 32-35). According to claim 34, the dishwashing composition is substantially dry (see, for example, the specification at page 11, lines 16-20). According to claim 35, the dishwashing composition comprises components selected from the group consisting of: surfactant, amine, salts, solvent, polymeric suds stabilizer, enzymes, skin treatment agents, perfumes, and mixtures thereof (see, for example, the specification at page 12, lines 20-25).

According to claim 36, the wipe comprises a means for controlling the release of the dishwashing composition (see, for example, the specification at page 12, lines 26-35).

According to claim 37, the dishwashing composition is in the form of a paste. According to claim 38, the water impermeable membrane is heat sealed to the cleaning substrate (see, for example, the specification at page 13, lines 9-24).

Finally, independent claim 39 specifies a process of cleaning dishware using a disposable dishwashing wipe comprising the steps:

contacting the dishwashing wipe with water; and

subsequently contacting the dishware with the dishwashing wipe;

wherein the dishwashing wipe comprises:

at least two water impermeable membranes, wherein the water impermeable membranes comprise polyethylene membranes;

at least two nonwoven or paper cleaning substrates, wherein the cleaning substrates comprise batting; and

at least two comparatively more abrasive scrubbing substrates, wherein the scrubbing substrates comprise a polymeric scrim selected from the group consisting of: polyamide fibers, polyethylene fibers, polypropylene fibers and mixtures thereof.

VI. ISSUE ON APPEAL

The sole issue on appeal is the rejection of claims 20-39 under 35 U.S.C. §103(a) as being unpatentable over Deleo et al. (U.S. Patent No. 6,340,663).

VII. GROUPING OF THE CLAIMS

With respect to the above-noted issue on appeal and for the purposes of this appeal, Appellants concede that claims 21-26 and 29-37 stand or fall together with claim 20 from which they directly or indirectly depend. However, Appellants submit that claims 27, 28, 38 and 39 are independently patentable from claim 20 and reasons in support of their independent patentability are set forth below.

VIII. ARGUMENTS

As set forth in detail below, the process of cleaning dishware using a disposable dishwashing wipe defined by claims 20-39 is nonobvious over and patentably distinguishable from Deleo et al. Accordingly, this rejection should be reversed, and favorable action by the Board is respectfully requested.

A. The Rejection Under 35 U.S.C. §103

The claimed processes are nonobvious over and patentably distinguishable from Deleo et al. and, accordingly, the rejection of claims 20-39 under 35 U.S.C. §103 should be reversed.

1. The Examiner's Position

The Examiner asserted in the first office action dated August 29, 2002 that Deleo et al. disclose a cleaning wipe for hard surfaces wherein the “wipe is impregnated with at least one layer of nonwoven material and comprises a surfactant.” The Examiner noted that Deleo et al. do not teach or disclose a dishwashing wipe. The Examiner asserted that one of ordinary skill in the art would include dishware in a broad class of hard surfaces and that Deleo et al. teach that such hard surfaces include glass and porcelain, which are well known materials in the dishware industry. The Examiner asserted that Deleo et al. teach a wipe which is at least made of wood pulp or a blend of wood pulp and a synthetic fiber such as polyethylene, polyester, polypropylene and mixtures thereof.

2. Claims 20-39 are Nonobvious Over Deleo et al.

As noted above, the process of cleaning dishware using a disposable dishwashing wipe, as defined by claim 20, comprises contacting the dishwashing wipe with water and subsequently contacting the dishware with the dishwashing wipe. The dishwashing wipe comprises a nonwoven or paper cleaning substrate, and a comparatively more abrasive scrubbing substrate comprising a polymeric mesh or scrim selected from the group consisting of polyamide fibers, polyethylene fibers, polypropylene fibers and mixtures thereof.

Deleo et al., on the other hand, disclose a cleaning wipe for hard surfaces. The cleaning wipe comprises at least one layer of a nonwoven material which is impregnated with a liquid cleaner comprising a surfactant, a hydrophilic polymer and water. However, nowhere do Deleo et al. teach or suggest a wipe comprising two or more substrates, let alone a wipe comprising at least one nonwoven or paper cleaning substrate and a comparatively more abrasive scrubbing substrate comprising a polymeric mesh or scrim. In fact, Deleo et al. do not even discuss the abrasiveness of any surface of the wipe. Therefore, it certainly would not have been obvious to modify the wipe taught by Deleo et al. to provide two or more substrates having different abrasive properties.

To establish *prima facie* obviousness of the claimed invention, all of the claim limitations must be taught or suggested by the prior art, *In re Royka*, 490 F.2d 981, 180 U.S.P.Q. 580 (CCPA 1974). Furthermore, references relied upon to support a rejection under 35 U.S.C. §103 must provide an enabling disclosure, i.e., they must place the claimed invention in the possession of the public, *In re Payne*, 203 U.S.P.Q. 245 (CCPA 1979). Deleo et al. do not disclose or suggest a process for cleaning dishware using a wipe having both a cleaning substrate and a comparatively more abrasive scrubbing substrate comprising a polymeric mesh or scrim selected from the group consisting of: polyamide fibers, polyethylene fibers, polypropylene fibers and mixtures thereof. In addition, the Examiner has not pointed to any other prior art which suggests modifying the teachings of Deleo et al. in this manner. Instead, the Examiner has apparently relied on statements in Deleo et al. that the wipe may be made from “wood pulp or a blend of wood pulp and a synthetic fiber, such as polyethylene, polyester, polypropylene and **mixtures** thereof.” Office Action of February 26, 2003, p. 2 (emphasis in original). Clearly this is not even remotely similar to a wipe comprising two or more substrates having distinct abrasive properties.

In view of the failure of Deleo et al. to provide any teaching, suggestion or disclosure of a process employing a wipe having both a cleaning substrate and a more comparatively abrasive scrubbing substrate, Deleo et al. do not enable one skilled in the art to make and use the presently claimed process of cleaning dishware using a disposable dishwashing wipe. Furthermore, the Examiner has failed to cite any other prior art which would suggest modifying the wipe of Deleo et al. in this manner. Thus, Deleo et al. do not render the presently claimed process obvious. Accordingly, the rejection of claims 20-39 under 35 U.S.C. §103 should be reversed.

3. **Claims 27, 28, 38 and 39 are Independently Patentable**

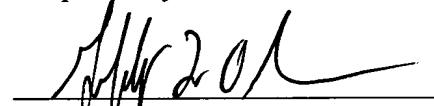
Claims 27, 28, 38 and 39 are directed to a process of cleaning dishware using a disposable dishwashing wipe, wherein the dishwashing wipe comprises at least one water impermeable membrane, as well as a cleaning substrate and a scrubbing substrate. However, there is no teaching or suggestion in Deleo et al. relating to any water impermeable membrane in the dishwashing wipe. In fact, nowhere does Deleo et al. even address the issue of water permeability, and it would appear that the wipes taught by Deleo et al. are water permeable!

As noted above, to establish *prima facie* obviousness of the claimed invention, all the claim limitations must be taught or suggested by the prior art, *In re Royka, supra*. In order to render a claimed invention obvious, the prior art must enable one skilled in the art to make and use the claimed invention, *Motorola, Inc. v. Interdigital Tech. Corp.*, 43 U.S.P.Q.2d 1481, 1489 (Fed. Cir. 1997). Deleo et al. simply disclose a nonwoven sheet made of wood pulp, or a blend of wood pulp and a synthetic fiber. Deleo et al. fail to disclose or suggest a dishwashing wipe comprising a water impermeable membrane, a nonwoven or paper cleaning substrate, and a comparatively more abrasive scrubbing substrate comprising a polymeric mesh or scrim. As such, Deleo et al. fail to enable one skilled in the art to make and use the claimed invention relating to the process of cleaning dishware using a disposable dishwashing wipe comprising a water impermeable membrane, a nonwoven or paper cleaning substrate in combination with a comparatively more abrasive scrubbing substrate comprising a polymeric mesh or scrim. Thus, claims 27, 28, 38 and 39 are further nonobvious over and patentably distinguishable from the teachings of Deleo et al. As such, the rejections of claims 27, 28, 38 and 39 under 35 U.S.C. §103 should be reversed.

IV. CONCLUSIONS

The process of cleaning dishware using a disposable dishwashing wipe defined by claims 20-39 are therefore nonobvious over and patentably distinguishable from Deleo et al. Accordingly, the rejection under 35 U.S.C. §103 should be reversed. Favorable action by the Board is respectfully requested.

Respectfully submitted,



Geoffrey L. Oberhaus
Registration No. 42,955
Dinsmore & Shohl LLP
1900 Chemed Center
255 East Fifth Street
Cincinnati, Ohio 45202
(513) 977-8623

APPENDIX

20. A process of cleaning dishware using a disposable dishwashing wipe comprising the steps:

(a) contacting the dishwashing wipe with water; and

(b) subsequently contacting the dishware with the dishwashing wipe;

wherein the dishwashing wipe comprises:

a nonwoven or paper cleaning substrate; and

a comparatively more abrasive scrubbing substrate comprising a polymeric mesh or scrim selected from the group consisting of: polyamide fibers, polyethylene fibers, polypropylene fibers and mixtures thereof.

21. The process of claim 20, wherein the cleaning substrate of the dishwashing wipe comprises batting.

22. The process of claim 20, wherein the cleaning substrate further comprises polyester single component fibers, polyester core-polyethylene sheath bicomponent fibers, or mixtures thereof.

23. The process of claim 21, wherein the cleaning substrate comprises a low-density batting comprising a blend of polyester fibers and polyester core-polyethylene sheath bicomponent fibers.

24. The process of claim 20, wherein the dishwashing wipe comprises at least two cleaning substrates.

25. The process of claim 20, wherein the dishwashing wipe comprises at least two scrubbing substrates.
26. The process of claim 20, wherein the cleaning substrate and scrubbing substrate of the dishwashing wipe are attached to each other around a perimeter of the cleaning substrate.
27. The process of claim 20, wherein the dishwashing wipe further comprises a water impermeable membrane.
28. The process of claim 27, wherein the water impermeable membrane comprises a polyethylene membrane.
29. The process of claim 24, wherein the scrubbing substrate is attached to one side of one of the cleaning substrates.
30. The process of claim 20, further comprising the step of rinsing the dishware with water.
31. The process of claim 20, further comprising the step of contacting the dishware with water.
32. The process of claim 20, wherein the wipe comprises a dishwashing composition.
33. The process of claim 32, further comprising the step:

after contacting the dishwashing wipe with water, squeezing the dishwashing wipe to produce suds.

34. The process of claim 32, wherein the dishwashing composition is substantially dry.

35. The process of claim 32, wherein the dishwashing composition comprises components selected from the group consisting of: surfactant, amine, salts, solvent, polymeric suds stabilizer, enzymes, skin treatment agents, perfumes, and mixtures thereof.

36. The process of claim 32, wherein the wipe comprises a means for controlling the release of the dishwashing composition.

37. The process of claim 32, wherein the dishwashing composition is in the form of a paste.

38. The process of claim of claim 27, wherein the water impermeable membrane is heat sealed to the cleaning substrate.

39. A process of cleaning dishware using a disposable dishwashing wipe comprising the steps:

- (a) contacting the dishwashing wipe with water; and
- (b) subsequently contacting the dishware with the dishwashing wipe;

wherein the dishwashing wipe comprises:

at least two water impermeable membranes, wherein the water impermeable membranes comprise polyethylene membranes;

at least two nonwoven or paper cleaning substrates, wherein the cleaning substrates comprise batting; and

at least two comparatively more abrasive scrubbing substrates, wherein the scrubbing substrates comprise a polymeric scrim selected from the group consisting of: polyamide fibers, polyethylene fibers, polypropylene fibers and mixtures thereof.

924819v1